

AMENDED IN SENATE JUNE 14, 2011

CALIFORNIA LEGISLATURE—2011–12 FIRST EXTRAORDINARY SESSION

**ASSEMBLY BILL**

**No. 21**

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**Introduced by Assembly Member Blumenfield**

May 19, 2011

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*An act relating to the Budget Act of 2011. An act to amend Sections 12009, 12201, 12204, 12207, 12242, 12251, 12253, 12254, 12257, 12258, 12260, 12301, 12302, 12303, 12304, 12305, 12307, 12412, 12413, 12421, 12422, 12423, 12427, 12428, 12429, 12431, 12433, 12434, 12491, 12493, 12494, 12601, 12602, 12631, 12632, 12636, 12636.5, 12679, 12681, 12801, 12951, 12977, 12983, 12984, and 13108 of the Revenue and Taxation Code, and to amend Section 14301.11 of the Welfare and Institutions Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 21, as amended, Blumenfield. ~~Budget Act of 2011. Taxation:~~ *managed care plan taxes.*

*(1) Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services are provided to qualified, low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Under existing law, one of the methods by which Medi-Cal services are provided is pursuant to contracts with various types of managed care plans. Existing law imposes various taxes, including a tax at a specified rate on the gross premiums of an insurer, as defined, and, until July 1, 2011, on the total operating revenue, as specified, of a Medi-Cal managed care plan, as defined. Existing law continuously*

*appropriates the revenues derived from the tax on Medi-Cal managed care plans for specified purposes.*

*This bill would extend the imposition of the tax on the total operating revenue of Medi-Cal managed care plans until January 1, 2013, and would make other conforming changes. This bill also would authorize the Controller to loan funds in the Children's Health and Human Services Special Fund to the General Fund, as provided. By extending the imposition of a tax whose revenues are continuously appropriated, this bill would make an appropriation.*

*(2) Existing law requires, until July 1, 2011, every return required to be filed with the Insurance Commissioner pursuant to provisions governing taxes on the total operating revenue of Medi-Cal managed care plans to be signed by the insurer or the Medi-Cal managed care plan or an executive officer of the insurer or the plan and to be made under oath or contain a written declaration that is made under penalty of perjury.*

*This bill would instead require every return required to be filed with the Insurance Commissioner pursuant to provisions governing taxes on the total operating revenue of Medi-Cal managed care plans to be made under oath or contain a written declaration that is made under penalty of perjury until January 1, 2013. By expanding the crime of perjury, this bill would impose a state-mandated local program.*

*(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

*(4) This bill would declare that it is to take effect immediately as an urgency statute.*

*This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2011.*

*The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.*

~~This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 12009 of the Revenue and Taxation Code*  
2     *is amended to read:*

3     12009. (a) “Medi-Cal managed care plan” or “plan” means  
4     any individual, organization, or entity, other than an insurer as  
5     described in Section 12003 or a dental managed care plan as  
6     described in Section 14087.46 of the Welfare and Institutions  
7     Code, that enters into a contract with the State Department of  
8     Health Care Services pursuant to Article 2.7 (commencing with  
9     Section 14087.3), Article 2.8 (commencing with Section 14087.5),  
10    Article 2.81 (commencing with Section 14087.96), Article 2.9  
11    (commencing with Section 14088), or Article 2.91 (commencing  
12    with Section 14089) of Chapter 7 of, or pursuant to Article 1  
13    (commencing with Section 14200) or Article 7 (commencing with  
14    Section 14490) of Chapter 8 of, Part 3 of Division 9 of the Welfare  
15    and Institutions Code.

16    (b) This section shall become inoperative on ~~July~~ *January* 1,  
17    ~~2011, 2013, and, as of January July 1, 2012, 2013, is repealed,~~  
18    unless a later enacted statute, that becomes operative on or before  
19    ~~January July 1, 2012, 2013,~~ deletes or extends the dates on which  
20    it becomes inoperative and is repealed.

21    *SEC. 2. Section 12201 of the Revenue and Taxation Code, as*  
22    *added by Section 31 of Chapter 717 of the Statutes of 2010, is*  
23    *amended to read:*

24    12201. (a) Every insurer and Medi-Cal managed care plan  
25    doing business in this state shall annually pay to the state a tax on  
26    the bases, at the rates, and subject to the deductions from the tax  
27    hereinafter specified. For purposes of the tax imposed by this  
28    chapter, “insurer” shall be deemed to include a home protection  
29    company as defined in Section 12740 of the Insurance Code.

30    (b) Notwithstanding Section 13340 of the Government Code,  
31    the revenues derived from the imposition of the tax by this chapter

1 on Medi-Cal managed care plans are hereby continuously  
2 appropriated as follows:

3 (1) A percentage of the revenues derived from the imposition  
4 of the tax by this chapter on Medi-Cal managed care plans equal  
5 to the difference between 100 percent and the applicable federal  
6 medical assistance percentage (FMAP) to the department for  
7 purposes of the Medi-Cal program.

8 (2) After deducting the revenues appropriated pursuant to  
9 paragraph (1), any remaining revenue to the Managed Risk Medical  
10 Insurance Board for purposes of the Healthy Families Program.

11 (c) The Insurance Commissioner shall report the amount of  
12 revenue derived from the tax imposed on Medi-Cal managed care  
13 plans pursuant to this section to the California Health and Human  
14 Services Agency, the Joint Legislative Budget Committee, and the  
15 Department of Finance.

16 (d) ~~This Section shall become operative on July 1, 2010~~  
17 *Notwithstanding any other law, the Controller may use the funds*  
18 *in the Children's Health and Human Services Special Fund for*  
19 *cashflow loans to the General Fund as provided in Sections 16310*  
20 *and 16381 of the Government Code.*

21 (e) This section shall become inoperative on ~~July~~ January 1,  
22 ~~2011, 2013, and, as of January July 1, 2012, 2013,~~ is repealed,  
23 unless a later enacted statute, that becomes operative on or before  
24 ~~January July 1, 2012, 2013,~~ deletes or extends the dates on which  
25 it becomes inoperative and is repealed.

26 *SEC. 3. Section 12201 of the Revenue and Taxation Code, as*  
27 *amended by Section 32 of Chapter 717 of the Statutes of 2010, is*  
28 *amended to read:*

29 12201. (a) Every insurer doing business in this state shall  
30 annually pay to the state a tax on the bases, at the rates, and subject  
31 to the deductions from the tax hereinafter specified. For purposes  
32 of the tax imposed by this chapter, "insurer" shall be deemed to  
33 include a home protection company as defined in Section 12740  
34 of the Insurance Code.

35 (b) This section shall become operative on ~~July~~ January 1, ~~2011~~  
36 ~~2013~~.

37 *SEC. 4. Section 12204 of the Revenue and Taxation Code, as*  
38 *amended by Section 33 of Chapter 717 of the Statutes of 2010, is*  
39 *amended to read:*

1 12204. (a) The tax imposed on insurers by this chapter is in  
2 lieu of all other taxes and licenses, state, county, and municipal,  
3 upon those insurers and their property, except:

4 (1) Taxes upon their real estate.

5 (2) Any retaliatory exactions imposed by paragraph (3) of  
6 subdivision (f) of Section 28 of Article XIII of the Constitution.

7 (3) The tax on ocean marine insurance.

8 (4) Motor vehicle and other vehicle registration license fees and  
9 any other tax or license fee imposed by the state upon vehicles,  
10 motor vehicles or the operation thereof.

11 (5) That each corporate or other attorney-in-fact of a reciprocal  
12 or interinsurance exchange shall be subject to all taxes imposed  
13 upon corporations or others doing business in the state, other than  
14 taxes on income derived from its principal business as  
15 attorney-in-fact.

16 (b) This section shall not apply to any Medi-Cal managed care  
17 plan and to any tax imposed on that plan by this chapter.

18 (c) This section shall become inoperative on ~~July~~ January 1,  
19 ~~2011, 2013~~, and, as of ~~January~~ July 1, ~~2012, 2013~~, is repealed,  
20 unless a later enacted statute, that becomes operative on or before  
21 ~~January~~ July 1, ~~2012, 2013~~, deletes or extends the dates on which  
22 it becomes inoperative and is repealed.

23 *SEC. 5. Section 12204 of the Revenue and Taxation Code, as*  
24 *amended by Section 34 of Chapter 717 of the Statutes of 2010, is*  
25 *amended to read:*

26 12204. (a) The tax imposed on insurers by this chapter is in  
27 lieu of all other taxes and licenses, state, county, and municipal,  
28 upon those insurers and their property, except:

29 (1) Taxes upon their real estate.

30 (2) Any retaliatory exactions imposed by paragraph (3) of  
31 subdivision (f) of Section 28 of Article XIII of the California  
32 Constitution.

33 (3) The tax on ocean marine insurance.

34 (4) Motor vehicle and other vehicle registration license fees and  
35 any other tax or license fee imposed by the state upon vehicles,  
36 motor vehicles or the operation thereof.

37 (5) That each corporate or other attorney-in-fact of a reciprocal  
38 or interinsurance exchange shall be subject to all taxes imposed  
39 upon corporations or others doing business in the state, other than

1 taxes on income derived from its principal business as  
2 attorney-in-fact.

3 (b) This section shall become operative on ~~July January 1, 2011~~  
4 ~~2013~~.

5 *SEC. 6. Section 12207 of the Revenue and Taxation Code is*  
6 *amended to read:*

7 12207. (a) Notwithstanding any other provision of this part,  
8 no credit shall be allowed under Section 12206, 12208, or 12209  
9 against the tax imposed on Medi-Cal managed care plans pursuant  
10 to Section 12201.

11 (b) This section shall become inoperative on ~~July January 1,~~  
12 ~~2011, 2013~~, and, as of ~~January July 1, 2012, 2013~~, is repealed,  
13 unless a later enacted statute, that becomes operative on or before  
14 ~~January July 1, 2012, 2013~~, deletes or extends the dates on which  
15 it becomes inoperative and is repealed.

16 *SEC. 7. Section 12242 of the Revenue and Taxation Code is*  
17 *amended to read:*

18 12242. This article shall become inoperative on ~~July January~~  
19 ~~1, 2011, 2013~~, and, as of ~~January July 1, 2012, 2013~~, is repealed,  
20 unless a later enacted statute, that becomes operative on or before  
21 ~~January July 1, 2012, 2013~~, deletes or extends the dates on which  
22 it becomes inoperative and is repealed.

23 *SEC. 8. Section 12251 of the Revenue and Taxation Code, as*  
24 *amended by Section 37 of Chapter 717 of the Statutes of 2010, is*  
25 *amended to read:*

26 12251. (a) For the calendar year 1970, and each calendar year  
27 thereafter, insurers transacting insurance in this state and whose  
28 annual tax for the preceding calendar year was five thousand dollars  
29 (\$5,000) or more shall make prepayments of the annual tax for the  
30 current calendar year imposed by Section 28 of Article XIII of the  
31 California Constitution and this part, provided that no prepayments  
32 shall be made with respect to the tax on ocean marine insurance  
33 underwriting profit or any retaliatory tax.

34 (b) Medi-Cal managed care plans shall make prepayments of  
35 the tax imposed by Section 12201 for the current calendar year,  
36 except that no prepayments shall be required prior to the effective  
37 date of the act adding this subdivision, and no penalties and interest  
38 shall be imposed pursuant to Section 12261 for not making those  
39 prepayments.

1 (c) This section shall become inoperative on ~~July~~ January 1,  
2 ~~2011, 2013, and, as of January July 1, 2012, 2013,~~ is repealed,  
3 unless a later enacted statute, that becomes operative on or before  
4 ~~January July 1, 2012, 2013,~~ deletes or extends the dates on which  
5 it becomes inoperative and is repealed.

6 *SEC. 9. Section 12251 of the Revenue and Taxation Code, as*  
7 *amended by Section 38 of Chapter 717 of the Statutes of 2010, is*  
8 *amended to read:*

9 12251. (a) For the calendar year 1970, and each calendar year  
10 thereafter, insurers transacting insurance in this state and whose  
11 annual tax for the preceding calendar year was five thousand dollars  
12 (\$5,000) or more shall make prepayments of the annual tax for the  
13 current calendar year imposed by Section 28 of Article XIII of the  
14 California Constitution and this part, provided that no prepayments  
15 shall be made with respect to the tax on ocean marine insurance  
16 underwriting profit or any retaliatory tax.

17 (b) This section shall become operative on ~~July~~ January 1, ~~2011,~~  
18 ~~2013.~~

19 *SEC. 10. Section 12253 of the Revenue and Taxation Code, as*  
20 *amended by Section 39 of Chapter 717 of the Statutes of 2010, is*  
21 *amended to read:*

22 12253. (a) Each insurer and Medi-Cal managed care plan  
23 required to make prepayments shall remit them on or before each  
24 of the dates of April 1st, June 1st, September 1st, and December  
25 1st of the current calendar year. Remittances for prepayments shall  
26 be made payable to the Controller and shall be delivered to the  
27 office of the commissioner, accompanied by a prepayment form  
28 prescribed by the commissioner.

29 (b) This section shall become inoperative on ~~July~~ January 1,  
30 ~~2011, 2013, and, as of January July 1, 2012, 2013,~~ is repealed,  
31 unless a later enacted statute, that becomes operative on or before  
32 ~~January July 1, 2012, 2013,~~ deletes or extends the dates on which  
33 it becomes inoperative and is repealed.

34 *SEC. 11. Section 12253 of the Revenue and Taxation Code, as*  
35 *amended by Section 40 of Chapter 717 of the Statutes of 2010, is*  
36 *amended to read:*

37 12253. (a) Each insurer required to make prepayments shall  
38 remit them on or before each of the dates of April 1st, June 1st,  
39 September 1st, and December 1st of the current calendar year.  
40 Remittances for prepayments shall be made payable to the

1 Controller and shall be delivered to the office of the commissioner,  
2 accompanied by a prepayment form prescribed by the  
3 commissioner.

4 (b) This section shall become operative on ~~July January 1, 2011~~  
5 ~~2013~~.

6 *SEC. 12. Section 12254 of the Revenue and Taxation Code, as*  
7 *amended by Section 41 of Chapter 717 of the Statutes of 2010, is*  
8 *amended to read:*

9 12254. (a) (1) For each insurer, the amount of each  
10 prepayment shall be 25 percent of the amount of the annual  
11 insurance tax liability reported on the return of the insurer for the  
12 preceding calendar year.

13 (2) For each Medi-Cal managed care plan, the amount of each  
14 prepayment shall be 25 percent of the amount of tax the plan  
15 estimates as the amount of tax imposed by Section 12201 with  
16 respect to the plan.

17 (b) In establishing the prepayment amount of an insurer that  
18 has acquired the business of another insurer, the amount of tax  
19 liability of the acquiring insurer reported for the preceding calendar  
20 year shall be deemed to include the amount of tax liability of the  
21 acquired insurer reported for that year.

22 (c) This section shall become inoperative on ~~July January 1,~~  
23 ~~2011, 2013, and, as of January July 1, 2012, 2013,~~ is repealed,  
24 unless a later enacted statute, that becomes operative on or before  
25 ~~January July 1, 2012, 2013,~~ deletes or extends the dates on which  
26 it becomes inoperative and is repealed.

27 *SEC. 13. Section 12254 of the Revenue and Taxation Code, as*  
28 *amended by Section 42 of Chapter 717 of the Statutes of 2010, is*  
29 *amended to read:*

30 12254. (a) The amount of each prepayment shall be 25 percent  
31 of the amount of the annual insurance tax liability reported on the  
32 return of the insurer for the preceding calendar year.

33 (b) In establishing the prepayment amount of an insurer that  
34 has acquired the business of another insurer, the amount of tax  
35 liability of the acquiring insurer reported for the preceding calendar  
36 year shall be deemed to include the amount of tax liability of the  
37 acquired insurer reported for that year.

38 (c) This section shall become operative on ~~July January 1, 2011~~  
39 ~~2013~~.



1     *SEC. 14. Section 12257 of the Revenue and Taxation Code, as*  
2     *amended by Section 43 of Chapter 717 of the Statutes of 2010, is*  
3     *amended to read:*

4     12257. (a) If the total amount of prepayments for any calendar  
5     year exceeds the amount of annual tax for that year, the excess  
6     shall be treated as an overpayment of annual tax and, at the election  
7     of the insurer or Medi-Cal managed care plan, may be credited  
8     against the amounts due and payable for the first prepayment of  
9     the following year. Any amount of the overpayment not so credited  
10    shall be allowed as a credit or refund under Article 2 (commencing  
11    with Section 12977) of Chapter 7 of this part.

12    (b) This section shall become inoperative on ~~July~~ January 1,  
13    ~~2011, 2013, and, as of January July 1, 2012, 2013,~~ is repealed,  
14    unless a later enacted statute, that becomes operative on or before  
15    ~~January July 1, 2012, 2013,~~ deletes or extends the dates on which  
16    it becomes inoperative and is repealed.

17    *SEC. 15. Section 12257 of the Revenue and Taxation Code, as*  
18    *amended by Section 44 of Chapter 717 of the Statutes of 2010, is*  
19    *amended to read:*

20    12257. (a) If the total amount of prepayments for any calendar  
21    year exceeds the amount of annual tax for that year, the excess  
22    shall be treated as an overpayment of annual tax and, at the election  
23    of the insurer, may be credited against the amounts due and payable  
24    for the first prepayment of the following year. Any amount of the  
25    overpayment not so credited shall be allowed as a credit or refund  
26    under Article 2 (commencing with Section 12977) of Chapter 7  
27    of this part.

28    (b) This section shall become operative on ~~July~~ January 1, ~~2011~~  
29    2013.

30    *SEC. 16. Section 12258 of the Revenue and Taxation Code, as*  
31    *amended by Section 45 of Chapter 717 of the Statutes of 2010, is*  
32    *amended to read:*

33    12258. (a) Any insurer or Medi-Cal managed care plan that  
34    fails to pay any prepayment within the time required shall pay a  
35    penalty of 10 percent of the amount of the required prepayment,  
36    plus interest at the modified adjusted rate per month, or fraction  
37    thereof, established pursuant to Section 6591.5, from the due date  
38    of the prepayment until the date of payment but not for any period  
39    after the due date of the annual tax. Assessments of prepayment

1 deficiencies may be made in the manner provided by deficiency  
2 assessments of the annual tax.

3 (b) This section shall become inoperative on ~~July~~ January 1,  
4 ~~2011, 2013~~, and, as of ~~January~~ July 1, ~~2012, 2013~~, is repealed,  
5 unless a later enacted statute, that becomes operative on or before  
6 ~~January~~ July 1, ~~2012, 2013~~, deletes or extends the dates on which  
7 it becomes inoperative and is repealed.

8 *SEC. 17. Section 12258 of the Revenue and Taxation Code, as*  
9 *amended by Section 46 of Chapter 717 of the Statutes of 2010, is*  
10 *amended to read:*

11 12258. (a) Any insurer that fails to pay any prepayment within  
12 the time required shall pay a penalty of 10 percent of the amount  
13 of the required prepayment, plus interest at the modified adjusted  
14 rate per month, or fraction thereof, established pursuant to Section  
15 6591.5, from the due date of the prepayment until the date of  
16 payment but not for any period after the due date of the annual  
17 tax. Assessments of prepayment deficiencies may be made in the  
18 manner provided by deficiency assessments of the annual tax.

19 (b) This section shall become operative on ~~July~~ January 1, ~~2011~~  
20 ~~2013~~.

21 *SEC. 18. Section 12260 of the Revenue and Taxation Code, as*  
22 *amended by Section 47 of Chapter 717 of the Statutes of 2010, is*  
23 *amended to read:*

24 12260. (a) Notwithstanding any other provision of this article,  
25 the commissioner may relieve an insurer or Medi-Cal managed  
26 care plan of its obligation to make prepayments where the insurer  
27 or Medi-Cal managed care plan establishes to the satisfaction of  
28 the commissioner that the insurer has ceased to transact insurance  
29 in this state or the Medi-Cal managed care plan has ceased to  
30 operate a plan in this state, or the insurer's or Medi-Cal managed  
31 care plan's annual tax for the current year will be less than five  
32 thousand dollars (\$5,000).

33 (b) This section shall become inoperative on ~~July~~ January 1,  
34 ~~2011, 2013~~, and, as of ~~January~~ July 1, ~~2012, 2013~~, is repealed,  
35 unless a later enacted statute, that becomes operative on or before  
36 ~~January~~ July 1, ~~2012, 2013~~, deletes or extends the dates on which  
37 it becomes inoperative and is repealed.

38 *SEC. 19. Section 12260 of the Revenue and Taxation Code, as*  
39 *amended by Section 48 of Chapter 717 of the Statutes of 2010, is*  
40 *amended to read:*

1 12260. (a) Notwithstanding any other provision of this article,  
2 the commissioner may relieve an insurer of its obligation to make  
3 prepayments where the insurer establishes to the satisfaction of  
4 the commissioner that either the insurer has ceased to transact  
5 insurance in this state, or the insurer's annual tax for the current  
6 year will be less than five thousand dollars (\$5,000).

7 (b) This section shall become operative on ~~July~~ January 1, ~~2011~~  
8 2013.

9 *SEC. 20. Section 12301 of the Revenue and Taxation Code, as*  
10 *amended by Section 49 of Chapter 717 of the Statutes of 2010, is*  
11 *amended to read:*

12 12301. (a) The taxes imposed upon insurers by Section 28 of  
13 Article XIII of the California Constitution and this part, except  
14 with respect to taxes on ocean marine insurance and retaliatory  
15 taxes, are due and payable annually on or before April 1st of the  
16 year following the calendar year in which the insurer engaged in  
17 the business of insurance or transacted insurance in this state. The  
18 taxes imposed with respect to ocean marine insurance are due and  
19 payable on or before June 15th of that year.

20 (b) With respect to Medi-Cal managed care plans, the taxes  
21 imposed by Section 12201 shall be due and payable on or before  
22 April 1st of the year following the calendar year in which the plan  
23 contracted with the State Department of Health Care Services as  
24 described in Section 12009.

25 (c) This section shall become inoperative on ~~July~~ January 1,  
26 ~~2011, 2013, and, as of January~~ July 1, ~~2012, 2013, is repealed,~~  
27 unless a later enacted statute, that becomes operative on or before  
28 ~~January~~ July 1, ~~2012, 2013, deletes or extends the dates on which~~  
29 it becomes inoperative and is repealed. However, any tax imposed  
30 by Section 12201 shall continue to be due and payable until the  
31 tax is paid.

32 *SEC. 21. Section 12301 of the Revenue and Taxation Code, as*  
33 *amended by Section 50 of Chapter 717 of the Statutes of 2010, is*  
34 *amended to read:*

35 12301. (a) The taxes imposed upon insurers by Section 28 of  
36 Article XIII of the California Constitution and this part, except  
37 with respect to taxes on ocean marine insurance and retaliatory  
38 taxes, are due and payable annually on or before April 1st of the  
39 year following the calendar year in which the insurer engaged in  
40 the business of insurance or transacted insurance in this state. The

1 taxes imposed with respect to ocean marine insurance are due and  
2 payable on or before June 15th of that year.

3 (b) This section shall become operative on ~~July January 1, 2011~~  
4 ~~2013~~.

5 *SEC. 22. Section 12302 of the Revenue and Taxation Code, as*  
6 *amended by Section 51 of Chapter 717 of the Statutes of 2010, is*  
7 *amended to read:*

8 12302. (a) On or before April 1st (or June 15th with respect  
9 to taxes on ocean marine insurance) every person that is subject  
10 to any tax imposed by Section 28 of Article XIII of the California  
11 Constitution or this part, in respect to the preceding calendar year  
12 shall file, in duplicate, a tax return with the commissioner in the  
13 form as the commissioner may prescribe. The return shall show  
14 that information pertaining to its insurance business, or in the case  
15 of a Medi-Cal managed care plan, pertaining to contracts for  
16 providing services as described in Section 12009, in this state as  
17 will reflect the basis of its tax as set forth in Chapter 2  
18 (commencing with Section 12071) and Chapter 3 (commencing  
19 with Section 12201) of this part, the computation of the amount  
20 of tax for the period covered by the return, the total amount of any  
21 tax prepayments made pursuant to Article 5 (commencing with  
22 Section 12251) of Chapter 3 of this part, and any other information  
23 as the commissioner may require to carry out the purposes of this  
24 part. Separate returns shall be filed with respect to the following  
25 kinds of insurance:

26 (1) Life insurance (or life insurance and disability insurance).

27 (2) Ocean marine insurance.

28 (3) Title insurance.

29 (4) Insurance other than life insurance (or life insurance and  
30 disability insurance), ocean marine insurance or title insurance.

31 (b) This section shall become inoperative on ~~July January 1,~~  
32 ~~2011, 2013,~~ and, as of ~~January July 1, 2012, 2013,~~ is repealed,  
33 unless a later enacted statute, that becomes operative on or before  
34 ~~January July 1, 2012, 2013,~~ deletes or extends the dates on which  
35 it becomes inoperative and is repealed.

36 *SEC. 23. Section 12302 of the Revenue and Taxation Code, as*  
37 *amended by Section 52 of Chapter 717 of the Statutes of 2010, is*  
38 *amended to read:*

39 12302. (a) On or before April 1st (or June 15th with respect  
40 to taxes on ocean marine insurance) every person that is subject

to any tax imposed by Section 28 of Article XIII of the California Constitution or this part, in respect to the preceding calendar year shall file, in duplicate, an insurance tax return with the commissioner in the form as the commissioner may prescribe. The return shall show that information pertaining to its insurance business in this state as will reflect the basis of its tax as set forth in Chapter 2 (commencing with Section 12071) and Chapter 3 (commencing with Section 12201) of this part, the computation of the amount of tax for the period covered by the return, the total amount of any tax prepayments made pursuant to Article 5 (commencing with Section 12251) of Chapter 3 of this part, and any other information as the commissioner may require to carry out the purposes of this part. Separate returns shall be filed with respect to the following kinds of insurance:

- (1) Life insurance (or life insurance and disability insurance).
- (2) Ocean marine insurance.
- (3) Title insurance.
- (4) Insurance other than life insurance (or life insurance and disability insurance), ocean marine insurance or title insurance.

(b) This section shall become operative on ~~July~~ January 1, ~~2011~~ 2013.

*SEC. 24. Section 12303 of the Revenue and Taxation Code, as amended by Section 53 of Chapter 717 of the Statutes of 2010, is amended to read:*

12303. (a) Every return required by this article to be filed with the commissioner shall be signed by the insurer or Medi-Cal managed care plan or an executive officer of the insurer or plan and shall be made under oath or contain a written declaration that it is made under penalty of perjury. A return of a foreign insurer may be signed and verified by its manager residing within this state. A return of an alien insurer may be signed and verified by the United States manager of the insurer.

(b) This section shall become inoperative on ~~July~~ January 1, ~~2011~~, 2013, and, as of ~~January~~ July 1, ~~2012~~, 2013, is repealed, unless a later enacted statute, that becomes operative on or before ~~January~~ July 1, ~~2012~~, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

*SEC. 25. Section 12303 of the Revenue and Taxation Code, as amended by Section 54 of Chapter 717 of the Statutes of 2010, is amended to read:*

1 12303. (a) Every return required by this article to be filed with  
2 the commissioner shall be signed by the insurer or an executive  
3 officer of the insurer and shall be made under oath or contain a  
4 written declaration that it is made under penalty of perjury. A  
5 return of a foreign insurer may be signed and verified by its  
6 manager residing within this state. A return of an alien insurer may  
7 be signed and verified by the United States manager of the insurer.

8 (b) This section shall become operative on ~~July January 1, 2011~~  
9 2013.

10 SEC. 26. *Section 12304 of the Revenue and Taxation Code, as*  
11 *amended by Section 55 of Chapter 717 of the Statutes of 2010, is*  
12 *amended to read:*

13 12304. (a) Blank forms of returns shall be furnished by the  
14 commissioner on application, but failure to secure the form shall  
15 not relieve any insurer or Medi-Cal managed care plan from  
16 making or filing a timely return.

17 (b) This section shall become inoperative on ~~July January 1,~~  
18 ~~2011, 2013,~~ and, as of ~~January July 1, 2012, 2013,~~ is repealed,  
19 unless a later enacted statute, that becomes operative on or before  
20 ~~January July 1, 2012, 2013,~~ deletes or extends the dates on which  
21 it becomes inoperative and is repealed.

22 SEC. 27. *Section 12304 of the Revenue and Taxation Code, as*  
23 *amended by Section 56 of Chapter 717 of the Statutes of 2010, is*  
24 *amended to read:*

25 12304. (a) Blank forms of returns shall be furnished by the  
26 commissioner on application, but failure to secure the form shall  
27 not relieve any insurer from making or filing a timely return.

28 (b) This section shall become operative on ~~July January 1, 2011~~  
29 2013.

30 SEC. 28. *Section 12305 of the Revenue and Taxation Code, as*  
31 *amended by Section 57 of Chapter 717 of the Statutes of 2010, is*  
32 *amended to read:*

33 12305. (a) The insurer or Medi-Cal managed care plan required  
34 to file a return shall deliver the return in duplicate, together with  
35 a remittance payable to the Controller, for the amount of tax  
36 computed and shown thereon, less any prepayments made pursuant  
37 to Article 5 (commencing with Section 12251) of Chapter 3 of this  
38 part, to the office of the commissioner.

39 (b) This section shall become inoperative on ~~July January 1,~~  
40 ~~2011, 2013,~~ and, as of ~~January July 1, 2012, 2013,~~ is repealed,

1 unless a later enacted statute, that becomes operative on or before  
2 ~~January July 1, 2012, 2013~~, deletes or extends the dates on which  
3 it becomes inoperative and is repealed.

4 *SEC. 29. Section 12305 of the Revenue and Taxation Code, as*  
5 *amended by Section 58 of Chapter 717 of the Statutes of 2010, is*  
6 *amended to read:*

7 12305. (a) The insurer required to file a return shall deliver  
8 the return in duplicate, together with a remittance payable to the  
9 Controller, for the amount of tax computed and shown thereon,  
10 less any prepayments made pursuant to Article 5 (commencing  
11 with Section 12251) of Chapter 3 of this part, to the office of the  
12 commissioner.

13 (b) This section shall become operative on ~~July January 1, 2011~~  
14 ~~2013~~.

15 *SEC. 30. Section 12307 of the Revenue and Taxation Code, as*  
16 *amended by Section 59 of Chapter 717 of the Statutes of 2010, is*  
17 *amended to read:*

18 12307. (a) Any insurer or Medi-Cal managed care plan to  
19 which an extension is granted shall pay, in addition to the tax,  
20 interest at the modified adjusted rate per month, or fraction thereof,  
21 established pursuant to Section 6591.5, from April 1st until the  
22 date of payment.

23 (b) This section shall become inoperative on ~~July January 1,~~  
24 ~~2011, 2013~~, and, as of ~~January July 1, 2012, 2013~~, is repealed,  
25 unless a later enacted statute, that becomes operative on or before  
26 ~~January July 1, 2012, 2013~~, deletes or extends the dates on which  
27 it becomes inoperative and is repealed.

28 *SEC. 31. Section 12307 of the Revenue and Taxation Code, as*  
29 *amended by Section 60 of Chapter 717 of the Statutes of 2010, is*  
30 *amended to read:*

31 12307. (a) Any insurer that is granted an extension shall pay,  
32 in addition to the tax, interest at the modified adjusted rate per  
33 month, or fraction thereof, established pursuant to Section 6591.5,  
34 from April 1st until the date of payment.

35 (b) This section shall become operative on ~~July January 1, 2011~~  
36 ~~2013~~.

37 *SEC. 32. Section 12412 of the Revenue and Taxation Code, as*  
38 *amended by Section 61 of Chapter 717 of the Statutes of 2010, is*  
39 *amended to read:*

1 12412. (a) Upon receipt of the duplicate copy of the return of  
2 an insurer or Medi-Cal managed care plan the board shall initially  
3 assess the tax in accordance with the data as reported by the insurer  
4 or Medi-Cal managed care plan on the return.

5 (b) This section shall become inoperative on ~~July~~ January 1,  
6 ~~2011, 2013~~, and, as of ~~January~~ July 1, ~~2012, 2013~~, is repealed,  
7 unless a later enacted statute, that becomes operative on or before  
8 ~~January~~ July 1, ~~2012, 2013~~, deletes or extends the dates on which  
9 it becomes inoperative and is repealed.

10 SEC. 33. *Section 12412 of the Revenue and Taxation Code, as*  
11 *amended by Section 62 of Chapter 717 of the Statutes of 2010, is*  
12 *amended to read:*

13 12412. (a) Upon receipt of the duplicate copy of the return of  
14 an insurer the board shall initially assess the tax in accordance  
15 with the data as reported by the insurer on the return.

16 (b) This section shall become operative on ~~July~~ January 1, ~~2011~~  
17 ~~2013~~.

18 SEC. 34. *Section 12413 of the Revenue and Taxation Code, as*  
19 *amended by Section 63 of Chapter 717 of the Statutes of 2010, is*  
20 *amended to read:*

21 12413. (a) The board shall promptly transmit notice of its  
22 initial assessment to the commissioner and the Controller, and if  
23 the initial assessment differs from the amount computed by the  
24 insurer or Medi-Cal managed care plan, notice shall also be given  
25 to the insurer or Medi-Cal managed care plan.

26 (b) This section shall become inoperative on ~~July~~ January 1,  
27 ~~2011, 2013~~, and, as of ~~January~~ July 1, ~~2012, 2013~~, is repealed,  
28 unless a later enacted statute, that becomes operative on or before  
29 ~~January~~ July 1, ~~2012, 2013~~, deletes or extends the dates on which  
30 it becomes inoperative and is repealed.

31 SEC. 35. *Section 12413 of the Revenue and Taxation Code, as*  
32 *amended by Section 64 of Chapter 717 of the Statutes of 2010, is*  
33 *amended to read:*

34 12413. (a) The board shall promptly transmit notice of its  
35 initial assessment to the commissioner and the Controller, and if  
36 the initial assessment differs from the amount computed by the  
37 insurer, notice shall also be given to the insurer.

38 (b) This section shall become operative on ~~July~~ January 1, ~~2011~~  
39 ~~2013~~.



1     *SEC. 36. Section 12421 of the Revenue and Taxation Code, as*  
2     *amended by Section 65 of Chapter 717 of the Statutes of 2010, is*  
3     *amended to read:*

4     12421. (a) As soon as practicable after an insurer's, surplus  
5     line broker's, or Medi-Cal managed care plan's return is filed, the  
6     commissioner shall examine it, together with any information  
7     within his or her possession or that may come into his or her  
8     possession, and he or she shall determine the correct amount of  
9     tax of the insurer, surplus line broker, or Medi-Cal managed care  
10    plan.

11    (b) This section shall become inoperative on ~~July~~ January 1,  
12    ~~2011, 2013, and, as of January July 1, 2012, 2013,~~ is repealed,  
13    unless a later enacted statute, that becomes operative on or before  
14    ~~January July 1, 2012, 2013,~~ deletes or extends the dates on which  
15    it becomes inoperative and is repealed.

16    *SEC. 37. Section 12421 of the Revenue and Taxation Code, as*  
17    *amended by Section 66 of Chapter 717 of the Statutes of 2010, is*  
18    *amended to read:*

19    12421. (a) As soon as practicable after an insurer's or surplus  
20    line broker's return is filed, the commissioner shall examine it,  
21    together with any information within his or her possession or that  
22    may come into his or her possession, and he or she shall determine  
23    the correct amount of tax of the insurer or surplus line broker.

24    (b) This section shall become operative on ~~July~~ January 1, ~~2011~~  
25    2013.

26    *SEC. 38. Section 12422 of the Revenue and Taxation Code, as*  
27    *amended by Section 67 of Chapter 717 of the Statutes of 2010, is*  
28    *amended to read:*

29    12422. (a) If the commissioner determines that the amount of  
30    tax disclosed by the insurer's tax return and assessed by the board  
31    is less than the amount of tax disclosed by his or her examination,  
32    he or she shall propose, in writing, to the board a deficiency  
33    assessment for the difference. The proposal shall set forth the basis  
34    for the deficiency assessment and the details of its computation.

35    (b) If the commissioner determines that the amount of tax  
36    disclosed by the surplus line broker's tax return is less than the  
37    amount of tax disclosed by his or her examination, he or she shall  
38    propose, in writing, to the board a deficiency assessment for the  
39    difference. The proposal shall set forth the basis for the deficiency  
40    assessment and the details of its computation.

1 (c) If the commissioner determines that the amount of tax  
2 disclosed by the Medi-Cal managed care plan's tax return is less  
3 than the amount of tax disclosed by his or her examination, he or  
4 she shall propose, in writing, to the board a deficiency assessment  
5 for the difference. The proposal shall set forth the basis for the  
6 deficiency assessment and the details of its computation.

7 (d) This section shall become inoperative on ~~July~~ January 1,  
8 ~~2011~~, 2013, and, as of ~~January~~ July 1, ~~2012~~, 2013, is repealed,  
9 unless a later enacted statute, that becomes operative on or before  
10 ~~January~~ July 1, ~~2012~~, 2013, deletes or extends the dates on which  
11 it becomes inoperative and is repealed.

12 *SEC. 39. Section 12422 of the Revenue and Taxation Code, as*  
13 *amended by Section 68 of Chapter 717 of the Statutes of 2010, is*  
14 *amended to read:*

15 12422. (a) If the commissioner determines that the amount of  
16 tax disclosed by the insurer's tax return and assessed by the board  
17 is less than the amount of tax disclosed by his or her examination,  
18 he or she shall propose, in writing, to the board a deficiency  
19 assessment for the difference. The proposal shall set forth the basis  
20 for the deficiency assessment and the details of its computation.

21 (b) If the commissioner determines that the amount of tax  
22 disclosed by the surplus line broker's tax return is less than the  
23 amount of tax disclosed by his or her examination, he or she shall  
24 propose, in writing, to the board a deficiency assessment for the  
25 difference. The proposal shall set forth the basis for the deficiency  
26 assessment and the details of its computation.

27 (c) This section shall become operative on ~~July~~ January 1, ~~2011~~  
28 2013.

29 *SEC. 40. Section 12423 of the Revenue and Taxation Code, as*  
30 *amended by Section 69 of Chapter 717 of the Statutes of 2010, is*  
31 *amended to read:*

32 12423. (a) If an insurer, surplus line broker, or Medi-Cal  
33 managed care plan fails to file a return, the commissioner may  
34 require a return by mailing notice to the insurer, surplus line broker,  
35 or Medi-Cal managed care plan to file a return by a specified date  
36 or he or she may without requiring a return, or upon no return  
37 having been filed pursuant to the demand therefor, make an  
38 estimate of the amount of tax due for the calendar year or years in  
39 respect to which the insurer, surplus line broker, or Medi-Cal  
40 managed care plan failed to file the return. The estimate shall be

made from any available information which is in the commissioner's possession or may come into his or her possession, and the commissioner shall propose, in writing, to the board a deficiency assessment for the amount of the estimated tax. The proposal shall set forth the basis of the estimate and the details of the computation of the tax.

(b) This section shall become inoperative on ~~July~~ January 1, 2011, 2013, and, as of ~~January~~ July 1, ~~2012~~, 2013, is repealed, unless a later enacted statute, that becomes operative on or before January July 1, ~~2012~~, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 41. Section 12423 of the Revenue and Taxation Code, as amended by Section 70 of Chapter 717 of the Statutes of 2010, is amended to read:

12423. (a) If an insurer or surplus line broker fails to file a return, the commissioner may require a return by mailing notice to the insurer or surplus line broker to file a return by a specified date or he or she may without requiring a return, or upon no return having been filed pursuant to the demand therefor, make an estimate of the amount of tax due for the calendar year or years in respect to which the insurer or surplus line broker failed to file the return. The estimate shall be made from any available information which is in the commissioner's possession or may come into his or her possession, and the commissioner shall propose, in writing, to the board a deficiency assessment for the amount of the estimated tax. The proposal shall set forth the basis of the estimate and the details of the computation of the tax.

(b) This section shall become operative on ~~July~~ January 1, 2011, 2013.

SEC. 42. Section 12427 of the Revenue and Taxation Code, as amended by Section 71 of Chapter 717 of the Statutes of 2010, is amended to read:

12427. (a) The board shall promptly notify the insurer, surplus line broker, or Medi-Cal managed care plan of a deficiency assessment made against the insurer, surplus line broker, or Medi-Cal managed care plan.

(b) This section shall become inoperative on ~~July~~ January 1, 2011, 2013, and, as of ~~January~~ July 1, ~~2012~~, 2013, is repealed, unless a later enacted statute, that becomes operative on or before

1 ~~January July 1, 2012, 2013~~, deletes or extends the dates on which  
2 it becomes inoperative and is repealed.

3 *SEC. 43. Section 12427 of the Revenue and Taxation Code, as*  
4 *amended by Section 72 of Chapter 717 of the Statutes of 2010, is*  
5 *amended to read:*

6 12427. (a) The board shall promptly notify the insurer or  
7 surplus line broker of a deficiency assessment made against the  
8 insurer or surplus line broker.

9 (b) This section shall become operative on ~~July January 1, 2011~~  
10 ~~2013~~.

11 *SEC. 44. Section 12428 of the Revenue and Taxation Code, as*  
12 *amended by Section 73 of Chapter 717 of the Statutes of 2010, is*  
13 *amended to read:*

14 12428. (a) An insurer, surplus line broker, or Medi-Cal  
15 managed care plan against which a deficiency assessment is made  
16 under Section 12424 or 12425 may petition for redetermination  
17 of the deficiency assessment within 30 days after service upon the  
18 insurer, surplus line broker, or Medi-Cal managed care plan of the  
19 notice thereof, by filing with the board a written petition setting  
20 forth the grounds of objection to the deficiency assessment and  
21 the correction sought. At the time the petition is filed with the  
22 board, a copy of the petition shall be filed with the commissioner.

23 If a petition for redetermination is not filed within the period  
24 prescribed by this section, the deficiency assessment becomes final  
25 and due and payable at the expiration of that period.

26 (b) This section shall become inoperative on ~~July January 1,~~  
27 ~~2011, 2013~~, and, as of ~~January July 1, 2012, 2013~~, is repealed,  
28 unless a later enacted statute, that becomes operative on or before  
29 ~~January July 1, 2012, 2013~~, deletes or extends the dates on which  
30 it becomes inoperative and is repealed.

31 *SEC. 45. Section 12428 of the Revenue and Taxation Code, as*  
32 *amended by Section 74 of Chapter 717 of the Statutes of 2010, is*  
33 *amended to read:*

34 12428. (a) An insurer or surplus line broker against which a  
35 deficiency assessment is made under Section 12424 or 12425 may  
36 petition for redetermination of the deficiency assessment within  
37 30 days after service upon the insurer or surplus line broker of the  
38 notice thereof, by filing with the board a written petition setting  
39 forth the grounds of objection to the deficiency assessment and

1 the correction sought. At the time the petition is filed with the  
2 board, a copy of the petition shall be filed with the commissioner.

3 If a petition for redetermination is not filed within the period  
4 prescribed by this section, the deficiency assessment becomes final  
5 and due and payable at the expiration of that period.

6 (b) This section shall become operative on ~~July~~ January 1, 2011  
7 2013.

8 *SEC. 46. Section 12429 of the Revenue and Taxation Code, as*  
9 *amended by Section 75 of Chapter 717 of the Statutes of 2010, is*  
10 *amended to read:*

11 12429. (a) If a petition for redetermination of a deficiency  
12 assessment is filed within the time allowed under Section 12428,  
13 the board shall reconsider the deficiency assessment and, if the  
14 insurer, surplus line broker, or Medi-Cal managed care plan has  
15 so requested in the petition, shall grant an oral hearing for the  
16 presentation of evidence and argument before the board or its  
17 authorized representative. The board shall give the petitioner and  
18 the commissioner at least 20 days' notice of the time and place of  
19 hearing. The hearing may be continued from time to time as may  
20 be necessary.

21 (b) This section shall become inoperative on ~~July~~ January 1,  
22 2011, 2013, and, as of ~~January~~ July 1, 2012, 2013, is repealed,  
23 unless a later enacted statute, that becomes operative on or before  
24 ~~January~~ July 1, 2012, 2013, deletes or extends the dates on which  
25 it becomes inoperative and is repealed.

26 *SEC. 47. Section 12429 of the Revenue and Taxation Code, as*  
27 *amended by Section 76 of Chapter 717 of the Statutes of 2010, is*  
28 *amended to read:*

29 12429. (a) If a petition for redetermination of a deficiency  
30 assessment is filed within the time allowed under Section 12428,  
31 the board shall reconsider the deficiency assessment and, if the  
32 insurer or surplus line broker has so requested in the petition, shall  
33 grant an oral hearing for the presentation of evidence and argument  
34 before the board or its authorized representative. The board shall  
35 give the petitioner and the commissioner at least 20 days' notice  
36 of the time and place of hearing. The hearing may be continued  
37 from time to time as may be necessary.

38 (b) This section shall become operative on ~~July~~ January 1, 2011  
39 2013.

1     *SEC. 48. Section 12431 of the Revenue and Taxation Code, as*  
2     *amended by Section 77 of Chapter 717 of the Statutes of 2010, is*  
3     *amended to read:*

4     12431. (a) The order or decision of the board upon a petition  
5     for redetermination of a deficiency assessment becomes final 30  
6     days after service on the insurer, surplus line broker, or Medi-Cal  
7     managed care plan of a notice thereof, and any resulting deficiency  
8     assessment is due and payable at the time the order or decision  
9     becomes final.

10    (b) This section shall become inoperative on ~~July~~ January 1,  
11    ~~2011, 2013, and, as of January July 1, 2012, 2013,~~ is repealed,  
12    unless a later enacted statute, that becomes operative on or before  
13    ~~January July 1, 2012, 2013,~~ deletes or extends the dates on which  
14    it becomes inoperative and is repealed.

15    *SEC. 49. Section 12431 of the Revenue and Taxation Code, as*  
16    *amended by Section 78 of Chapter 717 of the Statutes of 2010, is*  
17    *amended to read:*

18    12431. (a) The order or decision of the board upon a petition  
19    for redetermination of a deficiency assessment becomes final 30  
20    days after service on the insurer or surplus line broker of a notice  
21    thereof, and any resulting deficiency assessment is due and payable  
22    at the time the order or decision becomes final.

23    (b) This section shall become operative on ~~July~~ January 1, ~~2011~~  
24    2013.

25    *SEC. 50. Section 12433 of the Revenue and Taxation Code, as*  
26    *amended by Section 79 of Chapter 717 of the Statutes of 2010, is*  
27    *amended to read:*

28    12433. (a) If before the expiration of the time prescribed in  
29    Section 12432 for giving of a notice of deficiency assessment the  
30    insurer, surplus line broker, or Medi-Cal managed care plan has  
31    consented in writing to the giving of the notice after that time, the  
32    notice may be given at any time prior to the expiration of the time  
33    agreed upon. The period so agreed upon may be extended by  
34    subsequent agreements in writing made before the expiration of  
35    the period previously agreed upon.

36    (b) This section shall become inoperative on ~~July~~ January 1,  
37    ~~2011, 2013, and, as of January July 1, 2012, 2013,~~ is repealed,  
38    unless a later enacted statute, that becomes operative on or before  
39    ~~January July 1, 2012, 2013,~~ deletes or extends the dates on which  
40    it becomes inoperative and is repealed.

1     *SEC. 51. Section 12433 of the Revenue and Taxation Code, as*  
2     *amended by Section 80 of Chapter 717 of the Statutes of 2010, is*  
3     *amended to read:*

4     12433. (a) If before the expiration of the time prescribed in  
5     Section 12432 for giving of a notice of deficiency assessment the  
6     insurer or surplus line broker has consented in writing to the giving  
7     of the notice after that time, the notice may be given at any time  
8     prior to the expiration of the time agreed upon. The period so  
9     agreed upon may be extended by subsequent agreements in writing  
10    made before the expiration of the period previously agreed upon.

11    (b) This section shall become operative on ~~July~~ *January* 1, ~~2011~~  
12    2013.

13    *SEC. 52. Section 12434 of the Revenue and Taxation Code, as*  
14    *amended by Section 81 of Chapter 717 of the Statutes of 2010, is*  
15    *amended to read:*

16    12434. (a) Any notice required by this article shall be placed  
17    in a sealed envelope, with postage paid, addressed to the insurer,  
18    surplus line broker, or Medi-Cal managed care plan at its address  
19    as it appears in the records of the commissioner or the board. The  
20    giving of notice shall be deemed complete at the time of deposit  
21    of the notice in the United States Post Office, or a mailbox, subpost  
22    office, substation or mail chute or other facility regularly  
23    maintained or provided by the United States Postal Service, without  
24    extension of time for any reason. In lieu of mailing, a notice may  
25    be served personally by delivering to the person to be served and  
26    service shall be deemed complete at the time of the delivery.  
27    Personal service to a corporation may be made by delivery of a  
28    notice to any person designated in the Code of Civil Procedure to  
29    be served for the corporation with summons and complaint in a  
30    civil action.

31    (b) This section shall become inoperative on ~~July~~ *January* 1,  
32    ~~2011~~, 2013, and, as of ~~January~~ *July* 1, ~~2012~~, 2013, is repealed,  
33    unless a later enacted statute, that becomes operative on or before  
34    ~~January~~ *July* 1, ~~2012~~, 2013, deletes or extends the dates on which  
35    it becomes inoperative and is repealed.

36    *SEC. 53. Section 12434 of the Revenue and Taxation Code, as*  
37    *amended by Section 82 of Chapter 717 of the Statutes of 2010, is*  
38    *amended to read:*

39    12434. (a) Any notice required by this article shall be placed  
40    in a sealed envelope, with postage paid, addressed to the insurer

1 or surplus line broker at its address as it appears in the records of  
2 the commissioner or the board. The giving of notice shall be  
3 deemed complete at the time of deposit of the notice in the United  
4 States Post Office, or a mailbox, subpost office, substation or mail  
5 chute or other facility regularly maintained or provided by the  
6 United States Postal Service, without extension of time for any  
7 reason. In lieu of mailing, a notice may be served personally by  
8 delivering to the person to be served and service shall be deemed  
9 complete at the time of the delivery. Personal service to a  
10 corporation may be made by delivery of a notice to any person  
11 designated in the Code of Civil Procedure to be served for the  
12 corporation with summons and complaint in a civil action.

13 (b) This section shall become operative on ~~July~~ January 1, ~~2011~~  
14 2013.

15 *SEC. 54. Section 12491 of the Revenue and Taxation Code, as*  
16 *amended by Section 83 of Chapter 717 of the Statutes of 2010, is*  
17 *amended to read:*

18 12491. (a) Every tax levied upon an insurer under Article XIII  
19 of the California Constitution and this part is a lien upon all  
20 property and franchises of every kind and nature belonging to the  
21 insurer, and has the effect of a judgment against the insurer.

22 (b) (1) Every tax levied upon a surplus line broker under Part  
23 7.5 (commencing with Section 13201) of Division 2 is a lien upon  
24 all property and franchises of every kind and nature belonging to  
25 the surplus line broker, and has the effect of a judgment against  
26 the surplus line broker.

27 (2) A lien levied pursuant to this subdivision shall not exceed  
28 the amount of unpaid tax collected by the surplus line broker.

29 (c) (1) Every tax levied upon a Medi-Cal managed care plan  
30 under Chapter 1 (commencing with Section 12001) is a lien upon  
31 all property and franchises of every kind and nature belonging to  
32 the Medi-Cal managed care plan, and has the effect of a judgment  
33 against the Medi-Cal managed care plan.

34 (2) A lien levied pursuant to this subdivision shall not exceed  
35 the amount of unpaid tax collected by the Medi-Cal managed care  
36 plan.

37 (d) This section shall become inoperative on ~~July~~ January 1,  
38 ~~2011~~, 2013, and, as of ~~January~~ July 1, ~~2012~~, 2013, is repealed,  
39 unless a later enacted statute, that becomes operative on or before



1 ~~January July 1, 2012, 2013~~, deletes or extends the dates on which  
2 it becomes inoperative and is repealed.

3 *SEC. 55. Section 12491 of the Revenue and Taxation Code, as*  
4 *amended by Section 84 of Chapter 717 of the Statutes of 2010, is*  
5 *amended to read:*

6 12491. (a) Every tax levied upon an insurer under the  
7 provisions of Article XIII of the California Constitution and of  
8 this part is a lien upon all property and franchises of every kind  
9 and nature belonging to the insurer, and has the effect of a  
10 judgment against the insurer.

11 (b) (1) Every tax levied upon a surplus line broker under the  
12 provisions of Part 7.5 (commencing with Section 13201) of  
13 Division 2 is a lien upon all property and franchises of every kind  
14 and nature belonging to the surplus line broker, and has the effect  
15 of a judgment against the surplus line broker.

16 (2) A lien levied pursuant to this subdivision shall not exceed  
17 the amount of unpaid tax collected by the surplus line broker.

18 (c) This section shall become operative on ~~July January 1, 2011~~  
19 ~~2013~~.

20 *SEC. 56. Section 12493 of the Revenue and Taxation Code, as*  
21 *amended by Section 85 of Chapter 717 of the Statutes of 2010, is*  
22 *amended to read:*

23 12493. (a) Every lien has the effect of an execution duly levied  
24 against all property of a delinquent insurer, surplus line broker, or  
25 Medi-Cal managed care plan.

26 (b) This section shall become inoperative on ~~July January 1,~~  
27 ~~2011, 2013~~, and, as of ~~January July 1, 2012, 2013~~, is repealed,  
28 unless a later enacted statute, that becomes operative on or before  
29 ~~January July 1, 2012, 2013~~, deletes or extends the dates on which  
30 it becomes inoperative and is repealed.

31 *SEC. 57. Section 12493 of the Revenue and Taxation Code, as*  
32 *amended by Section 86 of Chapter 717 of the Statutes of 2010, is*  
33 *amended to read:*

34 12493. (a) Every lien has the effect of an execution duly levied  
35 against all property of a delinquent insurer or surplus line broker.

36 (b) This section shall become operative on ~~July January 1, 2011~~  
37 ~~2013~~.

38 *SEC. 58. Section 12494 of the Revenue and Taxation Code, as*  
39 *amended by Section 87 of Chapter 717 of the Statutes of 2010, is*  
40 *amended to read:*

1 12494. (a) No judgment is satisfied nor lien removed until  
2 either:

3 (1) The taxes, interest, penalties, and costs are paid.

4 (2) The insurer's, surplus line broker's, or Medi-Cal managed  
5 care plan's property is sold for the payment thereof.

6 (b) This section shall become inoperative on ~~July~~ January 1,  
7 ~~2011, 2013, and, as of January July 1, 2012, 2013,~~ is repealed,  
8 unless a later enacted statute, that becomes operative on or before  
9 ~~January July 1, 2012, 2013,~~ deletes or extends the dates on which  
10 it becomes inoperative and is repealed.

11 *SEC. 59. Section 12494 of the Revenue and Taxation Code, as*  
12 *amended by Section 88 of Chapter 717 of the Statutes of 2010, is*  
13 *amended to read:*

14 12494. (a) No judgment is satisfied nor lien removed until  
15 either:

16 (1) The taxes, interest, penalties, and costs are paid.

17 (2) The insurer's or surplus line broker's property is sold for  
18 the payment thereof.

19 (b) This section shall become operative on ~~July~~ January 1, ~~2011~~  
20 ~~2013.~~

21 *SEC. 60. Section 12601 of the Revenue and Taxation Code, as*  
22 *amended by Section 89 of Chapter 717 of the Statutes of 2010, is*  
23 *amended to read:*

24 12601. (a) Amounts of taxes, interest, and penalties not  
25 remitted to the commissioner with the original return of the insurer  
26 or Medi-Cal managed care plan shall be payable to the Controller.

27 (b) This section shall become inoperative on ~~July~~ January 1,  
28 ~~2011, 2013, and, as of January July 1, 2012, 2013,~~ is repealed,  
29 unless a later enacted statute, that becomes operative on or before  
30 ~~January July 1, 2012, 2013,~~ deletes or extends the dates on which  
31 it becomes inoperative and is repealed.

32 *SEC. 61. Section 12601 of the Revenue and Taxation Code, as*  
33 *amended by Section 90 of Chapter 717 of the Statutes of 2010, is*  
34 *amended to read:*

35 12601. (a) Amounts of taxes, interest, and penalties not  
36 remitted to the commissioner with the original return of the insurer  
37 shall be payable to the Controller.

38 (b) This section shall become operative on ~~July~~ January 1, ~~2011~~  
39 ~~2013.~~

1     *SEC. 62. Section 12602 of the Revenue and Taxation Code, as*  
2     *amended by Section 91 of Chapter 717 of the Statutes of 2010, is*  
3     *amended to read:*

4     12602. (a) (1) On and after January 1, 1994, and before  
5     January 1, 1995, each insurer whose annual taxes exceed fifty  
6     thousand dollars (\$50,000) shall make payment by electronic funds  
7     transfer, as defined by Section 45 of the Insurance Code. On and  
8     after January 1, 1995, each insurer whose annual taxes exceed  
9     twenty thousand dollars (\$20,000) shall make payment by  
10    electronic funds transfer. The insurer shall choose one of the  
11    acceptable methods described in Section 45 of the Insurance Code  
12    for completing the electronic funds transfer.

13    (2) Each Medi-Cal managed care plan shall make payment by  
14    electronic funds transfer, as defined by Section 45 of the Insurance  
15    Code. The plan shall choose one of the acceptable methods  
16    described in Section 45 of the Insurance Code for completing the  
17    electronic funds transfer.

18    (b) Payment shall be deemed complete on the date the electronic  
19    funds transfer is initiated, if settlement to the state's demand  
20    account occurs on or before the banking day following the date  
21    the transfer is initiated. If settlement to the state's demand account  
22    does not occur on or before the banking day following the date the  
23    transfer is initiated, payment shall be deemed to occur on the date  
24    settlement occurs.

25    (c) (1) Any insurer or Medi-Cal managed care plan required to  
26    remit taxes by electronic funds transfer pursuant to this section  
27    that remits those taxes by means other than an appropriate  
28    electronic funds transfer, shall be assessed a penalty in an amount  
29    equal to 10 percent of the taxes due at the time of the payment.

30    (2) If the Department of Insurance finds that an insurer's or  
31    Medi-Cal managed care plan's failure to make payment by an  
32    appropriate electronic funds transfer in accordance with subdivision  
33    (a) is due to reasonable cause or circumstances beyond the insurer's  
34    or Medi-Cal managed care plan's control, and occurred  
35    notwithstanding the exercise of ordinary care and in the absence  
36    of willful neglect, that insurer or Medi-Cal managed care plan  
37    shall be relieved of the penalty provided in paragraph (1).

38    (3) Any insurer or Medi-Cal managed care plan seeking to be  
39    relieved of the penalty provided in paragraph (1) shall file with

1 the Department of Insurance a statement under penalty of perjury  
2 setting forth the facts upon which the claim for relief is based.

3 (d) This section shall become inoperative on ~~July~~ January 1,  
4 ~~2011, 2013, and, as of January July 1, 2012, 2013,~~ is repealed,  
5 unless a later enacted statute, that becomes operative on or before  
6 ~~January July 1, 2012, 2013,~~ deletes or extends the dates on which  
7 it becomes inoperative and is repealed.

8 *SEC. 63. Section 12602 of the Revenue and Taxation Code, as*  
9 *amended by Section 92 of Chapter 717 of the Statutes of 2010, is*  
10 *amended to read:*

11 12602. (a) On and after January 1, 1994, and before January  
12 1, 1995, each insurer whose annual taxes exceed fifty thousand  
13 dollars (\$50,000) shall make payment by electronic funds transfer,  
14 as defined by Section 45 of the Insurance Code. On and after  
15 January 1, 1995, each insurer whose annual taxes exceed twenty  
16 thousand dollars (\$20,000) shall make payment by electronic funds  
17 transfer. The insurer shall choose one of the acceptable methods  
18 described in Section 45 of the Insurance Code for completing the  
19 electronic funds transfer.

20 (b) Payment shall be deemed complete on the date the electronic  
21 funds transfer is initiated, if settlement to the state's demand  
22 account occurs on or before the banking day following the date  
23 the transfer is initiated. If settlement to the state's demand account  
24 does not occur on or before the banking day following the date the  
25 transfer is initiated, payment shall be deemed to occur on the date  
26 settlement occurs.

27 (c) (1) Any insurer required to remit taxes by electronic funds  
28 transfer pursuant to this section that remits those taxes by means  
29 other than an appropriate electronic funds transfer, shall be assessed  
30 a penalty in an amount equal to 10 percent of the taxes due at the  
31 time of the payment.

32 (2) If the Department of Insurance finds that an insurer's failure  
33 to make payment by an appropriate electronic funds transfer in  
34 accordance with subdivision (a) is due to reasonable cause or  
35 circumstances beyond the insurer's control, and occurred  
36 notwithstanding the exercise of ordinary care and in the absence  
37 of willful neglect, that insurer shall be relieved of the penalty  
38 provided in paragraph (1).

39 (3) Any insurer seeking to be relieved of the penalty provided  
40 in paragraph (1) shall file with the Department of Insurance a

1 statement under penalty of perjury setting forth the facts upon  
2 which the claim for relief is based.

3 (d) This section shall become operative on ~~July January 1, 2011~~  
4 2013.

5 *SEC. 64. Section 12631 of the Revenue and Taxation Code, as*  
6 *amended by Section 93 of Chapter 717 of the Statutes of 2010, is*  
7 *amended to read:*

8 12631. (a) Any insurer or Medi-Cal managed care plan that  
9 fails to pay any tax, except a tax determined as a deficiency  
10 assessment by the board under Article 3 (commencing with Section  
11 12421) of Chapter 4, within the time required, shall pay a penalty  
12 of 10 percent of the amount of the tax in addition to the tax, plus  
13 interest at the modified adjusted rate per month, or fraction thereof,  
14 established pursuant to Section 6591.5, from the due date of the  
15 tax until the date of payment.

16 (b) This section shall become inoperative on ~~July January 1,~~  
17 ~~2011, 2013,~~ and, as of ~~January July 1, 2012, 2013,~~ is repealed,  
18 unless a later enacted statute, that becomes operative on or before  
19 ~~January July 1, 2012, 2013,~~ deletes or extends the dates on which  
20 it becomes inoperative and is repealed.

21 *SEC. 65. Section 12631 of the Revenue and Taxation Code, as*  
22 *amended by Section 94 of Chapter 717 of the Statutes of 2010, is*  
23 *amended to read:*

24 12631. (a) Any insurer that fails to pay any tax, except a tax  
25 determined as a deficiency assessment by the board under Article  
26 3 (commencing with Section 12421) of Chapter 4, within the time  
27 required, shall pay a penalty of 10 percent of the amount of the  
28 tax in addition to the tax, plus interest at the modified adjusted rate  
29 per month, or fraction thereof, established pursuant to Section  
30 6591.5, from the due date of the tax until the date of payment.

31 (b) This section shall become operative on ~~July January 1, 2011~~  
32 2013.

33 *SEC. 66. Section 12632 of the Revenue and Taxation Code, as*  
34 *amended by Section 95 of Chapter 717 of the Statutes of 2010, is*  
35 *amended to read:*

36 12632. (a) An insurer or Medi-Cal managed care plan that  
37 fails to pay any deficiency assessment when it becomes due and  
38 payable shall, in addition to the deficiency assessment, pay a  
39 penalty of 10 percent of the amount of the deficiency assessment,  
40 exclusive of interest and penalties. The amount of any deficiency

1 assessment, exclusive of penalties, shall bear interest at the  
2 modified adjusted rate per month, or fraction thereof, established  
3 pursuant to Section 6591.5, from the date on which the amount,  
4 or any portion thereof, would have been payable if properly  
5 reported and assessed until the date of payment.

6 (b) This section shall become inoperative on ~~July~~ January 1,  
7 ~~2011, 2013, and, as of January July 1, 2012, 2013,~~ is repealed,  
8 unless a later enacted statute, that becomes operative on or before  
9 ~~January July 1, 2012, 2013,~~ deletes or extends the dates on which  
10 it becomes inoperative and is repealed.

11 *SEC. 67. Section 12632 of the Revenue and Taxation Code, as*  
12 *amended by Section 96 of Chapter 717 of the Statutes of 2010, is*  
13 *amended to read:*

14 12632. (a) An insurer that fails to pay any deficiency  
15 assessment when it becomes due and payable shall, in addition to  
16 the deficiency assessment, pay a penalty of 10 percent of the  
17 amount of the deficiency assessment, exclusive of interest and  
18 penalties. The amount of any deficiency assessment, exclusive of  
19 penalties, shall bear interest at the modified adjusted rate per  
20 month, or fraction thereof, established pursuant to Section 6591.5,  
21 from the date on which the amount, or any portion thereof, would  
22 have been payable if properly reported and assessed until the date  
23 of payment.

24 (b) This section shall become operative on ~~July~~ January 1, ~~2011~~  
25 ~~2013~~.

26 *SEC. 68. Section 12636 of the Revenue and Taxation Code, as*  
27 *amended by Section 97 of Chapter 717 of the Statutes of 2010, is*  
28 *amended to read:*

29 12636. (a) If the board finds that an insurer's or Medi-Cal  
30 managed care plan's failure to make a timely return or payment  
31 is due to reasonable cause and to circumstances beyond the  
32 insurer's or Medi-Cal managed care plan's control, and which  
33 occurred despite the exercise of ordinary care and in the absence  
34 of willful neglect, the insurer or Medi-Cal managed care plan may  
35 be relieved of the penalty provided by Section 12258, 12282,  
36 12287, 12631, 12632, or 12633.

37 Any insurer or Medi-Cal managed care plan seeking to be  
38 relieved of the penalty shall file with the board a statement under  
39 penalty of perjury setting forth the facts upon which the claim for  
40 relief is based.

1 (b) This section shall become inoperative on ~~July~~ January 1,  
2 ~~2011, 2013,~~ and, as of ~~January~~ July 1, ~~2012, 2013,~~ is repealed,  
3 unless a later enacted statute, that becomes operative on or before  
4 ~~January~~ July 1, ~~2012, 2013,~~ deletes or extends the dates on which  
5 it becomes inoperative and is repealed.

6 *SEC. 69. Section 12636 of the Revenue and Taxation Code, as*  
7 *amended by Section 98 of Chapter 717 of the Statutes of 2010, is*  
8 *amended to read:*

9 12636. (a) If the board finds that an insurer's failure to make  
10 a timely return or payment is due to reasonable cause and to  
11 circumstances beyond the insurer's control, and which occurred  
12 despite the exercise of ordinary care and in the absence of willful  
13 neglect, the insurer may be relieved of the penalty provided by  
14 Section 12258, 12282, 12287, 12631, 12632, or 12633.

15 Any insurer seeking to be relieved of the penalty shall file with  
16 the board a statement under penalty of perjury setting forth the  
17 facts upon which the claim for relief is based.

18 (b) This section shall become operative on ~~July~~ January 1, ~~2011~~  
19 ~~2013.~~

20 *SEC. 70. Section 12636.5 of the Revenue and Taxation Code,*  
21 *as amended by Section 99 of Chapter 717 of the Statutes of 2010,*  
22 *is amended to read:*

23 12636.5. (a) Every payment on an insurer's, surplus line  
24 broker's, or Medi-Cal managed care plan's delinquent annual tax  
25 shall be applied as follows:

- 26 (1) First, to any interest due on the tax.  
27 (2) Second, to any penalty imposed by this part.  
28 (3) The balance, if any, to the tax itself.

29 (b) This section shall become inoperative on ~~July~~ January 1,  
30 ~~2011, 2013,~~ and, as of ~~January~~ July 1, ~~2012, 2013,~~ is repealed,  
31 unless a later enacted statute, that becomes operative on or before  
32 ~~January~~ July 1, ~~2012, 2013,~~ deletes or extends the dates on which  
33 it becomes inoperative and is repealed.

34 *SEC. 71. Section 12636.5 of the Revenue and Taxation Code,*  
35 *as amended by Section 100 of Chapter 717 of the Statutes of 2010,*  
36 *is amended to read:*

37 12636.5. (a) Every payment on an insurer's or surplus line  
38 broker's delinquent annual tax shall be applied as follows:

- 39 (1) First, to any interest due on the tax.  
40 (2) Second, to any penalty imposed by this part.

1 (3) The balance, if any, to the tax itself.

2 (b) This section shall become operative on ~~July January 1, 2011,~~  
3 2013.

4 *SEC. 72. Section 12679 of the Revenue and Taxation Code, as*  
5 *amended by Section 101 of Chapter 717 of the Statutes of 2010,*  
6 *is amended to read:*

7 12679. (a) If an insurer's or Medi-Cal managed care plan's  
8 right to do business has been forfeited or its corporate powers  
9 suspended, service of summons may be made upon the persons  
10 designated by law to be served as agents or officers of the insurer  
11 or Medi-Cal managed care plan, and these persons are the agents  
12 of the insurer or Medi-Cal managed care plan for all purposes  
13 necessary in order to prosecute the action. In the case of  
14 corporations whose powers have been suspended, the persons  
15 constituting the board of directors may defend the action.

16 (b) This section shall become inoperative on ~~July January 1,~~  
17 ~~2011, 2013,~~ and, as of ~~January July 1, 2012, 2013,~~ is repealed,  
18 unless a later enacted statute, that becomes operative on or before  
19 ~~January July 1, 2012, 2013,~~ deletes or extends the dates on which  
20 it becomes inoperative and is repealed.

21 *SEC. 73. Section 12679 of the Revenue and Taxation Code, as*  
22 *amended by Section 102 of Chapter 717 of the Statutes of 2010,*  
23 *is amended to read:*

24 12679. (a) If an insurer's right to do business has been forfeited  
25 or its corporate powers suspended, service of summons may be  
26 made upon the persons designated by law to be served as agents  
27 or officers of the insurer, and these persons are the agents of the  
28 insurer for all purposes necessary in order to prosecute the action.  
29 In the case of corporations whose powers have been suspended,  
30 the persons constituting the board of directors may defend the  
31 action.

32 (b) This section shall become operative on ~~July January 1, 2011~~  
33 2013.

34 *SEC. 74. Section 12681 of the Revenue and Taxation Code, as*  
35 *amended by Section 103 of Chapter 717 of the Statutes of 2010,*  
36 *is amended to read:*

37 12681. (a) In the action, a certificate of the Controller or of  
38 the secretary of the board, showing unpaid taxes against an insurer  
39 or Medi-Cal managed care plan is prima facie evidence of:

40 (1) The assessment of the taxes.



1 (2) The delinquency.

2 (3) The amount of the taxes, interest, and penalties due and  
3 unpaid to the state.

4 (4) That the insurer or Medi-Cal managed care plan is indebted  
5 to the state in the amount of taxes, interest, and penalties appearing  
6 unpaid.

7 (5) That there has been compliance with all the requirements  
8 of law in relation to the assessment of the taxes.

9 (b) This section shall become inoperative on ~~July~~ January 1,  
10 ~~2011~~, 2013, and, as of ~~January~~ July 1, ~~2012~~, 2013, is repealed,  
11 unless a later enacted statute, that becomes operative on or before  
12 ~~January~~ July 1, ~~2012~~, 2013, deletes or extends the dates on which  
13 it becomes inoperative and is repealed.

14 *SEC. 75. Section 12681 of the Revenue and Taxation Code, as*  
15 *amended by Section 104 of Chapter 717 of the Statutes of 2010,*  
16 *is amended to read:*

17 12681. (a) In the action, a certificate of the Controller or of  
18 the secretary of the board, showing unpaid taxes against an insurer  
19 is prima facie evidence of:

20 (1) The assessment of the taxes.

21 (2) The delinquency.

22 (3) The amount of the taxes, interest, and penalties due and  
23 unpaid to the state.

24 (4) That the insurer is indebted to the state in the amount of  
25 taxes, interest, and penalties appearing unpaid.

26 (5) That there has been compliance with all the requirements  
27 of law in relation to the assessment of the taxes.

28 (b) This section shall become operative on ~~July~~ January 1, ~~2011~~  
29 2013.

30 *SEC. 76. Section 12801 of the Revenue and Taxation Code, as*  
31 *amended by Section 105 of Chapter 717 of the Statutes of 2010,*  
32 *is amended to read:*

33 12801. (a) Annually, between December 10th and 15th, the  
34 Controller shall transmit to the commissioner a statement showing  
35 the names of all insurers and Medi-Cal managed care plans that  
36 failed to pay on or before December 10th the whole or any portion  
37 of the tax that became delinquent in the preceding June or which  
38 has been unpaid for more than 30 days from the date it became  
39 due and payable as a deficiency assessment under this part or the  
40 whole or any part of the interest or penalties due with respect to

1 the tax. The statement shall show the amount of the tax, interest,  
2 and penalties due from each insurer or Medi-Cal managed care  
3 plan.

4 (b) This section shall become inoperative on ~~July~~ January 1,  
5 ~~2011, 2013,~~ and, as of ~~January~~ July 1, ~~2012, 2013,~~ is repealed,  
6 unless a later enacted statute, that becomes operative on or before  
7 ~~January~~ July 1, ~~2012, 2013,~~ deletes or extends the dates on which  
8 it becomes inoperative and is repealed.

9 *SEC. 77. Section 12801 of the Revenue and Taxation Code, as*  
10 *amended by Section 106 of Chapter 717 of the Statutes of 2010,*  
11 *is amended to read:*

12 12801. (a) Annually, between December 10th and 15th, the  
13 Controller shall transmit to the commissioner a statement showing  
14 the names of all insurers that failed to pay on or before December  
15 10th the whole or any portion of the tax that became delinquent  
16 in the preceding June or which has been unpaid for more than 30  
17 days from the date it became due and payable as a deficiency  
18 assessment under this part or the whole or any part of the interest  
19 or penalties due with respect to the tax. The statement shall show  
20 the amount of the tax, interest, and penalties due from each insurer.

21 (b) This section shall become operative on ~~July~~ January 1, ~~2011~~  
22 ~~2013.~~

23 *SEC. 78. Section 12951 of the Revenue and Taxation Code, as*  
24 *amended by Section 107 of Chapter 717 of the Statutes of 2010,*  
25 *is amended to read:*

26 12951. (a) If any amount has been illegally assessed, the board  
27 shall set forth that fact in its records, certify the amount determined  
28 to be assessed in excess of the amount legally assessed and the  
29 insurer, surplus line broker, or Medi-Cal managed care plan against  
30 which the assessment was made, and authorize the cancellation of  
31 the amount upon the records of the Controller and the board. The  
32 board shall mail a notice to the insurer, surplus line broker, or  
33 Medi-Cal managed care plan of any cancellation authorized. Any  
34 proposed determination by the board pursuant to this section with  
35 respect to an amount in excess of fifty thousand dollars (\$50,000)  
36 shall be available as a public record for at least 10 days prior to  
37 the effective date of that determination.

38 (b) This section shall become inoperative on ~~July~~ January 1,  
39 ~~2011, 2013,~~ and, as of ~~January~~ July 1, ~~2012, 2013,~~ is repealed,  
40 unless a later enacted statute, that becomes operative on or before

1 ~~January July 1, 2012, 2013~~, deletes or extends the dates on which  
2 it becomes inoperative and is repealed.

3 *SEC. 79. Section 12951 of the Revenue and Taxation Code, as*  
4 *amended by Section 108 of Chapter 717 of the Statutes of 2010,*  
5 *is amended to read:*

6 12951. (a) If any amount has been illegally assessed, the board  
7 shall set forth that fact in its records, certify the amount determined  
8 to be assessed in excess of the amount legally assessed and the  
9 insurer or surplus line broker against which the assessment was  
10 made, and authorize the cancellation of the amount upon the  
11 records of the Controller and the board. The board shall mail a  
12 notice to the insurer or surplus line broker of any cancellation  
13 authorized. Any proposed determination by the board pursuant to  
14 this section with respect to an amount in excess of fifty thousand  
15 dollars (\$50,000) shall be available as a public record for at least  
16 10 days prior to the effective date of that determination.

17 (b) This section shall become operative on ~~July January 1, 2011~~  
18 ~~2013~~.

19 *SEC. 80. Section 12977 of the Revenue and Taxation Code, as*  
20 *amended by Section 109 of Chapter 717 of the Statutes of 2010,*  
21 *is amended to read:*

22 12977. (a) If the board determines that any tax, interest, or  
23 penalty has been paid more than once or has been erroneously or  
24 illegally collected or computed, the board shall set forth that fact  
25 in its records of the board, certify the amount of the taxes, interest,  
26 or penalties collected in excess of what was legally due, and from  
27 whom they were collected or by whom paid, and certify the excess  
28 to the Controller for credit or refund.

29 (b) The Controller upon receipt of a certification for credit or  
30 refund shall credit the excess on any amounts then due and payable  
31 from the insurer, surplus line broker, or Medi-Cal managed care  
32 plan under this part and refund the balance.

33 (c) Any proposed determination by the board pursuant to this  
34 section with respect to an amount in excess of fifty thousand dollars  
35 (\$50,000) shall be available as a public record for at least 10 days  
36 prior to the effective date of that determination.

37 (d) This section shall become inoperative on ~~July January 1,~~  
38 ~~2011, 2013~~, and, as of ~~January July 1, 2012, 2013~~, is repealed,  
39 unless a later enacted statute, that becomes operative on or before

1 ~~January~~ July 1, 2012, 2013, deletes or extends the dates on which  
2 it becomes inoperative and is repealed.

3 *SEC. 81. Section 12977 of the Revenue and Taxation Code, as*  
4 *amended by Section 110 of Chapter 717 of the Statutes of 2010,*  
5 *is amended to read:*

6 12977. (a) If the board determines that any tax, interest, or  
7 penalty has been paid more than once or has been erroneously or  
8 illegally collected or computed, the board shall set forth that fact  
9 in its records of the board, certify the amount of the taxes, interest,  
10 or penalties collected in excess of what was legally due, and from  
11 whom they were collected or by whom paid, and certify the excess  
12 to the Controller for credit or refund.

13 (b) The Controller upon receipt of a certification for credit or  
14 refund shall credit the excess on any amounts then due and payable  
15 from the insurer or surplus line broker under this part and refund  
16 the balance.

17 (c) Any proposed determination by the board pursuant to this  
18 section with respect to an amount in excess of fifty thousand dollars  
19 (\$50,000) shall be available as a public record for at least 10 days  
20 prior to the effective date of that determination.

21 (d) This section shall become operative on ~~July~~ January 1, 2011  
22 2013.

23 *SEC. 82. Section 12983 of the Revenue and Taxation Code, as*  
24 *amended by Section 111 of Chapter 717 of the Statutes of 2010,*  
25 *is amended to read:*

26 12983. (a) Interest shall be allowed upon the amount of any  
27 overpayment of tax by an insurer or Medi-Cal managed care plan  
28 pursuant to this part at the modified adjusted rate per month  
29 established pursuant to Section 6591.5, from the first day of the  
30 monthly period following the period during which the overpayment  
31 was made. For purposes of this section, “monthly period” means  
32 the month commencing on the day after the due date of the payment  
33 through the same date as the due date in each successive month.  
34 In addition, a refund or credit shall be made of any interest imposed  
35 upon the claimant with respect to the amount being refunded or  
36 credited.

37 The interest shall be paid as follows:

38 (1) In the case of a refund, to the last day of the calendar month  
39 following the date upon which the claimant is notified in writing

1 that a claim may be filed or the date upon which the claim is  
2 approved by the board, whichever date is the earlier.

3 (2) In the case of a credit, to the same date as that to which  
4 interest is computed on the tax or amount against which the credit  
5 is applied.

6 (b) This section shall become inoperative on ~~July~~ January 1,  
7 ~~2011, 2013~~, and, as of ~~January~~ July 1, ~~2012, 2013~~, is repealed,  
8 unless a later enacted statute, that becomes operative on or before  
9 ~~January~~ July 1, ~~2012, 2013~~, deletes or extends the dates on which  
10 it becomes inoperative and is repealed.

11 *SEC. 83. Section 12983 of the Revenue and Taxation Code, as*  
12 *amended by Section 112 of Chapter 717 of the Statutes of 2010,*  
13 *is amended to read:*

14 12983. (a) Interest shall be allowed upon the amount of any  
15 overpayment of tax by an insurer pursuant to this part at the  
16 modified adjusted rate per month established pursuant to Section  
17 6591.5, from the first day of the monthly period following the  
18 period during which the overpayment was made. For purposes of  
19 this section, “monthly period” means the month commencing on  
20 the day after the due date of the payment through the same date  
21 as the due date in each successive month. In addition, a refund or  
22 credit shall be made of any interest imposed upon the claimant  
23 with respect to the amount being refunded or credited.

24 The interest shall be paid as follows:

25 (1) In the case of a refund, to the last day of the calendar month  
26 following the date upon which the claimant is notified in writing  
27 that a claim may be filed or the date upon which the claim is  
28 approved by the board, whichever date is the earlier.

29 (2) In the case of a credit, to the same date as that to which  
30 interest is computed on the tax or amount against which the credit  
31 is applied.

32 (b) This section shall become operative on ~~July~~ January 1, ~~2011~~  
33 ~~2013~~.

34 *SEC. 84. Section 12984 of the Revenue and Taxation Code, as*  
35 *amended by Section 113 of Chapter 717 of the Statutes of 2010,*  
36 *is amended to read:*

37 12984. (a) If the board determines that any overpayment has  
38 been made intentionally or made not incident to a bona fide and  
39 orderly discharge of a liability reasonably assumed by the insurer,

1 surplus line broker, or Medi-Cal managed care plan to be imposed  
2 by law, no interest shall be allowed on the overpayment.

3 (b) If any insurer, surplus line broker, or Medi-Cal managed  
4 care plan which has filed a claim for refund requests the board to  
5 defer action on its claim, the board, as a condition to deferring  
6 action, may require the claimant to waive interest for the period  
7 during which the insurer, surplus line broker, or Medi-Cal managed  
8 care plan requests the board to defer action on the claim.

9 (c) This section shall become inoperative on ~~July~~ January 1,  
10 ~~2011, 2013~~, and, as of ~~January~~ July 1, ~~2012, 2013~~, is repealed,  
11 unless a later enacted statute, that becomes operative on or before  
12 ~~January~~ July 1, ~~2012, 2013~~, deletes or extends the dates on which  
13 it becomes inoperative and is repealed.

14 *SEC. 85. Section 12984 of the Revenue and Taxation Code, as*  
15 *amended by Section 114 of Chapter 717 of the Statutes of 2010,*  
16 *is amended to read:*

17 12984. (a) If the board determines that any overpayment has  
18 been made intentionally or made not incident to a bona fide and  
19 orderly discharge of a liability reasonably assumed by the insurer  
20 or surplus line broker to be imposed by law, no interest shall be  
21 allowed on the overpayment.

22 (b) If any insurer or surplus line broker which has filed a claim  
23 for refund requests the board to defer action on its claim, the board,  
24 as a condition to deferring action, may require the claimant to  
25 waive interest for the period during which the insurer or surplus  
26 line broker requests the board to defer action on the claim.

27 (c) This section shall become operative on ~~July~~ January 1, ~~2011~~  
28 ~~2013~~.

29 *SEC. 86. Section 13108 of the Revenue and Taxation Code, as*  
30 *amended by Section 115 of Chapter 717 of the Statutes of 2010,*  
31 *is amended to read:*

32 13108. (a) A judgment shall not be rendered in favor of the  
33 plaintiff when the action is brought by or in the name of an assignee  
34 of the insurer paying the tax, interest, or penalties, or by any person  
35 other than the insurer or Medi-Cal managed care plan that has paid  
36 the tax, interest, or penalties.

37 (b) This section shall become inoperative on ~~July~~ January 1,  
38 ~~2011, 2013~~, and, as of ~~January~~ July 1, ~~2012, 2013~~, is repealed,  
39 unless a later enacted statute, that becomes operative on or before

1 ~~January July 1, 2012, 2013~~, deletes or extends the dates on which  
2 it becomes inoperative and is repealed.

3 *SEC. 87. Section 13108 of the Revenue and Taxation Code, as*  
4 *amended by Section 116 of Chapter 717 of the Statutes of 2010,*  
5 *is amended to read:*

6 13108. (a) A judgment shall not be rendered in favor of the  
7 plaintiff when the action is brought by or in the name of an assignee  
8 of the insurer paying the tax, interest, or penalties, or by any person  
9 other than the insurer that has paid the tax, interest, or penalties.

10 (b) This section shall become operative on ~~July~~ *January* 1, ~~2011~~  
11 *2013*.

12 *SEC. 88. Section 14301.11 of the Welfare and Institutions Code*  
13 *is amended to read:*

14 14301.11. (a) The department shall use funds attributable to  
15 the tax on Medi-Cal managed care plans imposed by Section 12201  
16 of the Revenue and Taxation Code for the purpose specified in  
17 paragraph (1) of subdivision (b) of Section 12201 of the Revenue  
18 and Taxation Code.

19 (b) This section shall become inoperative on ~~July~~ *January* 1,  
20 ~~2011, 2013~~, and, as of ~~January July 1, 2012, 2013~~, is repealed,  
21 unless a later enacted statute, that becomes operative on or before  
22 ~~January July 1, 2012, 2013~~, deletes or extends the dates on which  
23 it becomes inoperative and is repealed.

24 *SEC. 89. No reimbursement is required by this act pursuant*  
25 *to Section 6 of Article XIII B of the California Constitution because*  
26 *the only costs that may be incurred by a local agency or school*  
27 *district will be incurred because this act creates a new crime or*  
28 *infraction, eliminates a crime or infraction, or changes the penalty*  
29 *for a crime or infraction, within the meaning of Section 17556 of*  
30 *the Government Code, or changes the definition of a crime within*  
31 *the meaning of Section 6 of Article XIII B of the California*  
32 *Constitution.*

33 *SEC. 90. This act is an urgency statute necessary for the*  
34 *immediate preservation of the public peace, health, or safety within*  
35 *the meaning of Article IV of the Constitution and shall go into*  
36 *immediate effect. The facts constituting the necessity are:*

37 *In order to make changes necessary for implementation of the*  
38 *Budget Act of 2011, it is necessary that this act take effect*  
39 *immediately.*

1     ~~SECTION 1. It is the intent of the Legislature to enact statutory~~  
2     ~~changes relating to the Budget Act of 2011.~~

3     ~~SEC. 2. This act addresses the fiscal emergency declared and~~  
4     ~~reaffirmed by the Governor by proclamation on January 20, 2011,~~  
5     ~~pursuant to subdivision (f) of Section 10 of Article IV of the~~  
6     ~~California Constitution.~~

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